

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

4361423 CANADA INC.,,

Plaintiff,

v.

SQUARE, INC.,

Defendant.

Case No. [19-cv-04311-JSW](#)

ORDER OF DISCLOSURE

The undersigned issues this Order of Disclosure to advise the parties of an issue that recently came to my attention. Under 28 U.S.C. section 455(b)(4), a judge should disqualify himself when he “knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding[.]” *See also* Code of Judicial Conduct Canon 3(C)(1). Section 455(f) further provides:

Notwithstanding the preceding provisions of this section, if any ... judge... to whom a matter has been assigned would be disqualified, after substantial judicial time has been devoted to the matter, because of the appearance or discovery, after the matter was assigned to him or her, that he or she individually or as a fiduciary, or his or her spouse or minor child residing in his or her household, has a financial interest in a party (other than an interest that could be substantially affected by the outcome), disqualification is not required if the ... judge..., divests himself or herself of the interest that provides the grounds for the disqualification.

See also Code of Judicial Conduct Canon 3(C)(4).

The undersigned participated in a year-end financial review during the third week of December and during that review learned I was invested in a closed/end investment fund in which

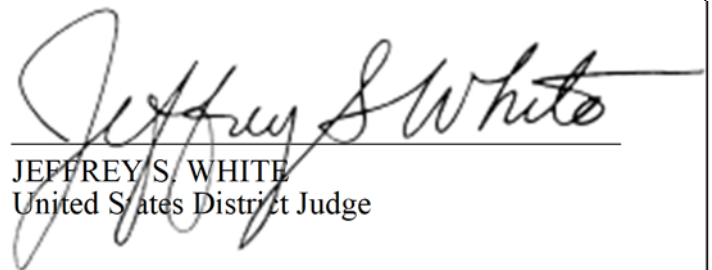
1 securities were held in my name. Among the securities included in the fund was Square, Inc.

2 It is my understanding that the securities in the fund were purchased between April 2020
3 and November 2020, but I did not direct the purchase of the securities and was not aware that I
4 held the securities until the year-end review. Within 72 hours of learning of this investment, I
5 divested myself of the interest in all securities held in the fund, including the securities in Square,
6 Inc.

7 Although this case currently is stayed and is otherwise in the early stages of litigation,
8 given the facts surrounding my discovery of this issue and my subsequent divestiture of the
9 securities, I conclude that the public interest and the efficient administration of justice would be
10 served by my continued participation in the matter and that recusal is not required. However, I am
11 issuing this Order to disclose the issue to the parties. If any party has an objection to the
12 undersigned continuing to preside over this matter, they shall file those objections by no later than
13 January 25, 2021. The undersigned shall not take any further action in this matter until I have
14 received, considered, and resolved those objections. If the undersigned receives no objections, I
15 will resume work on this matter.

16 **IT IS SO ORDERED.**

17 Dated: January 4, 2021

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19 JEFFREY S. WHITE
20 United States District Judge
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